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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,740	09/10/2003	J. David Sandoval	25403	3391

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NATH & ASSOCIATES  
112 South West Street  
Alexandria, VA 22314

EXAMINER
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ALMATRAHI, FARIS S

ART UNIT	PAPER NUMBER
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4137

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/658,740

**Applicant(s)**

SANDOVAL, J. DAVID

**Examiner**

Faris Almatrahi

**Art Unit**

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/18/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of the Application*

1. **Claims 1-18** are pending in this application.
2. If applicant is aware of any prior art or any co-pending application not already on record, the applicant is reminded of his/her duty under 37 C.F.R §1.56 to disclose the same.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-4** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. **Claim 1** recites the limitation "administering the cyclic use". There is insufficient antecedent basis for this limitation in the claim. It is unclear as to what the applicant is referring to as "the cyclic". Claim 1 also recites the limitation "a third party purchasing said one or more reusable shipping structures with materials thereon from said second party at a second value y". The limitation as recited is vague and indefinite. It is unclear if the value of y is that of the reusable shipping structure alone or if the value of y is that of the shipping structure and the material thereon combined.

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6. **Claims 2-4** recite the phrase "further comprising the step of said". There is insufficient antecedent basis for this limitation in the claim. Claims 2-4 as phrased imply a sequence of steps that do not flow with the disclosure of the limitations as recited in claim 1.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1-8, and 10-18** are rejected under 35 U.S.C. 102(e) as being anticipated by Richards et al. (US Publication No. 2003/0083920 A1).

9. Regarding claim 1, Richards discloses a method of administering the cyclic use and movement of one or more reusable shipping structures comprising: a first party providing one or more empty reusable shipping structures to a second party at a first value x; said second party placing materials on said one or more reusable shipping structures; and a third party purchasing said one or more reusable shipping structures with materials thereon from said second party at a second value y; wherein said second

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value y is less than said first value x (Abstract, Figure 1, Paragraph [0019], Paragraphs [0031] – [0032], Paragraphs [0034] – [0035]).

10. Regarding claim 2, Richards discloses a method further comprising the step of said second party valuing said one or more reusable shipping structures with materials thereon at a second value y (Figure 1, Paragraph [0025], Paragraphs [0031] – [0032]).

11. Regarding claim 3, Richards discloses a method further comprising the step of said third party removing the materials from said one or more reusable shipping structures (Paragraphs [0025] – [0026]).

12. Regarding claim 4, Richards discloses a method further comprising the step of said third party selling said one or more empty reusable shipping structures (Paragraph [0031]).

13. Regarding claims 5-6, Richards discloses a method wherein a fourth party delivers said one or more reusable shipping structures with materials thereon from said second party to said third party (Figure 1, Paragraph [0025]).

14. Regarding claim 7, Richards discloses a method wherein said second party charges its internal operations a usage fee which is the difference between the first value x and the second value y, for each reusable shipping structure put in use (Paragraph [0034]).

15. Regarding claim 8, Richards discloses a method wherein the first value x is about that of new or fully reconditioned reusable shipping structure (Paragraph [0034]).

16. Regarding claim 10, Richards discloses a method wherein said one or more reusable shipping structures are pallets (Figures 3-4).

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17. Regarding claim 11, Richards discloses a method wherein said pallets are wooden pallets (Paragraph [0004]).
18. Regarding claim 12, Richards discloses a method wherein said first party is selected from the group consisting of a shipping structure supplier and a shipping structure recycler (Abstract, Paragraph [0026]).
19. Regarding claim 13, Richards discloses a method wherein said second party is a product manufacturer (Paragraphs [0024] – [0025]).
20. Regarding claim 14, Richards discloses a method wherein said third party is a product distributor (Paragraph [0025]).
21. Regarding claim 15, Richards discloses a method further comprising said first party reselling one or more empty reusable shipping structures to a second party (Abstract, Paragraphs [0030] – [0031]).
22. Regarding claims 16-18, Richards discloses a method wherein said third party sells said empty reusable shipping structure for an amount about equal to the second value y, greater than the second value y, or less than the second value y (Abstract, Paragraphs [0031] – [0032]).

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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24. **Claim 9** is rejected under 35 U.S.C 103(a) as being unpatentable over Richards et al. (US Publication No. 2003/0083920 A1) in view of (EFR Executive Committee and Pallet Subcommittee "Assessing Pallet Cost in Foodservice", Efficient Foodservice Response, pp. 1-22, 2000).

25. Regarding Claim 9, Richards fails to explicitly disclose a method wherein the second value  $y$  is about sixty percent of the first value  $x$ .

26. However, the value of  $y$  is regarded as design choice and can obviously be any percentage of the first value  $x$ . Furthermore, EFR discloses a method wherein the second value  $y$  is about sixty percent of the first value  $x$  (Pages 10-13).

27. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of EFR in the device of Richards reference to include a method wherein the second value  $y$  is about sixty percent of the first value  $x$ , for the advantage of providing design choice flexibility.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faris Almatrahi whose telephone number is (571) 270-3326. The examiner can normally be reached on Monday to Thursday 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on (571) 272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Faris Almatrahi  
Examiner  
Art Unit 4137

FA

  
AKM ULLAH  
SUPERVISORY PATENT EXAMINER